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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,868	10/12/2006	Robert Desbrandes		5857

7590 11/18/2011  
E-Quantic Communications SARL a capital variable  
Allee des Cheriniers  
Givarlais, F-03190  
FRANCE

EXAMINER
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MONDT, JOHANNES P

ART UNIT	PAPER NUMBER
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3663

MAIL DATE	DELIVERY MODE
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11/18/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/599,868	<b>Applicant(s)</b> DESBRANDES ET AL.
	<b>Examiner</b> JOHANNES P. MONDT	<b>Art Unit</b> 3663

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 November 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 69-85.
- Claim(s) withdrawn from consideration: 47-67 and 86-93.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

November 16, 2011	/JOHANNES P MONDT/ Primary Examiner, Art Unit 3663
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Continuation of 3. NOTE: At least one, and in fact: all, claims as examined have been substantially amended in the proposed amendment, thus introducing new issues requiring further consideration and / or search. In view of the new issues the amendments cannot be deemed to place the application in better condition for appeal.

Continuation of 11. does NOT place the application in condition for allowance because: On applicant's remarks regarding the Declaration see item 8 above. Regarding comments on sections 4+, it is not the set-up but instead the credibility of the asserted utility that is at the core of the objection to the specification under 35 U.S.C. 101. Applicant does not explain how the Bremsstrahlung photons get entangled and are as such identifiable. Applicant further reinforces examiner's reasons for requiring evaluated, experimental data, with error analysis, by his insistence that his set-up is "very unique" while "the academic developments on quantum communications are of very limited interest". Examiner respectfully submits that basic research such as applicant's is the domain par excellence of the academic activities and work methods. The prospective practitioner of the invention is made to believe in entangled gamma rays from Bremsstrahlung and their identifiability as a non-academic exercise and without the requisite evaluated, experimental data. The academic researcher, however, would not even publish his/her data without the latter. To the extent applicant's current arguments were presented before, examiner responds by inclusion of "Response to Arguments" from the prior Office Action, while to the extent said arguments are new, applicant is reminded that the prior Office Action is final and that no valid reasons are presented why these arguments could not have been presented earlier. Similarly, regarding applicant's traverse of the objection and rejections under 35 USC 112, first paragraph, for lack of an enabling disclosure: not the set-up but the capability through the method, of controlling a remote deexcitation of an excitation by gamma rays, for which the specific isomeric nuclei (as individual, entangled particles) would have to be identified, and applicant has not provided evaluated, experimental data, sufficient to demonstrate that applicant has succeeded therein. In view of the above, said request does not persuade at all...